

## Message Text

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TO SECSTATE WASHDC PRIORITY 8613

UNCLAS SECTION 1 OF 2 SANTIAGO 3720

E.O.11652:N/A

TAGS:

SUBJ: HANDBOOK 3 DRAFT CHAPTERS ON PROJECT AUTHORIZATION AND  
PROJECT AGREEMENT

REF: AIDTO CIRC A 127

A. FOLLOWING ARE MISSION RESPONSES TO THE SIX QUESTIONS ASKED  
UNDER PARA 8 OF REFERENCE AIRGRAM.

1. PROPOSED PROJECT AGREEMENT DOES NOT ADEQUATELY REFLECT  
THE NATURE OF INCREMENTALLY FUNDED PROJECTS. THERE SHOULD BE A  
TABLE INCLUDED, PROBABLY IN ANNEX 1 OF THE AGREEMENT, DEFINING  
THE INPUTS FROM AID AND THE BORROWER/GRANTEE BY THEIR RESPECTIVE  
FISCAL YEARS. THE COVENANT ON BORROWER/GRANTEE CONTRIBUTION  
SHOULD REFLECT THIS TABLE. THE CONDITION PRECEDENT ON THE  
BORROWER/GRANTEE IMPLEMENTATION EVALUATION PLAN SHOULD ALSO  
CALL FOR A FIRM EVIDENCE OF B/G COMMITMENT OF FUNDS. STEPHENSON  
MEMO OF FEBRUARY 13 DEALS WITH MUTUALITY PROBLEM RAISED BY  
SUCH A REQUIREMENT.

2. COMBINATION OF PROJECT AUTHORIZATION AND REQUEST  
FOR ALLOTMENT FORM LOOKS GOOD AND WOULD WORK FINE FOR A FIRST  
YEAR ALLOTMENT. BUT HOW DOES AID/W PROPOSE MISSION SHOULD  
REQUEST ALLOTMENTS FOR INCREMENTALLY FUNDED NEW GRANT PROJECTS  
AFTER THE FIRST YEAR.

3. MISSION SUGGESTS THAT ARTICLES 7 AND 8 OF THE PROJECT  
AGREEMENT BE STANDARDIZED, PRE- PRINTED, TRANSLATED INTO SPANISH  
FOR LATIN AMERICA, AND MADE A SEPARATE PART OF THE LOAN OR  
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PROJECT AGREEMENT. THIS BOILER PLATE WOULD THEN BE MADE

AVAILABLE TO THE BORROWER/GRANTEE AS STANDARD MATERIAL ALREADY NEGOTIATED MANY TIMES. BY NOW BORROWERS ARE QUITE FAMILIAR WITH THE LANGUAGE AND PRINCIPLES. THE MISSION THUS ENVISAGES A PROJECT AGREEMENT THAT WOULD CONSIST ESSENTIALLY OF THREE PARTS. PART I CONTAINING LANGUAGE PARTICULAR TO THE PROJECT BEING AGREED UPON. PART II CONTAINING STANDARD CLAUSES REQUIRED BY EITHER LAW OR FOR NORMAL PROTECTION AND AN ANNEX WHICH WOULD CONTAIN A COMPLETE DESCRIPTION OF THE PROEJCT INCLUDING A BRIEF DESCRIPTION OF THE IMPLEMENTATION AND EVALUATION PLAN AS WEEL AS FINANCIAL TABLES. ANNEX WOULD BE SUBJECT TO AMENDMENT BY MUTUAL AGREEMENT DURING THE COURSE OF PROJECT IMPLEMENTATION AND USUALLY AS A RESULT OF JOINT ANNUAL EVALUATION.

4. AUGMENTING 7.4 OF THE PROPOSED AGREEMENT WITH THE LANGUAGE SUGGESTED IN REFERENCED AIRGRAM SEEMS APPROPRIATE.

5. THE HANDBOOK SHOULD MAKE CLEAR THAT THE IMPLEMENTATION PLAN PROVIDED IN THE PROJECT PAPER SHOULD SPECIFY CHANGES PROPOSED IN STANDARD LANGUAGE OR SHOULD SPECIFY CHANGES IN LANGUAGE ALREADY NEGOTIATED DURING THE PROJECT PREPARTION. PROJECT'S SPECIFIC LANGUAGE SHOULD BE LEFT TO THE NEGOTIATORS WHERE IT IS THE MISSION AND THE REGIONAL LEGAL ADVISOR WHO MUST ADJUST THE LANGUAGE OF THE AGREEMENT TO THE SPECIFIC CIRCUMSTANCES OF THE PROJECT AND THE COUNTRY INVOLVED. THIS FOLLOWS THE LINES OF THE DISTINCTION MENTIONED ABOVE BETWEEN VARIOUS PARTS OF THE PROJECT AGREEMENT.

6. THE FINANCIAL TABLES DESCRIBED IN PAGES 6.R.2 AND 6.F.3 OF HANDBOOK 3 SHOULD DEFINITELY BE INCLUDED IN ANNEX 1 TO THE PROJECT AGREEMENT. REVIEW OF PLANNED AND ACHIEVED FINANCIAL PERFORMANCE WOULD BECOME ONE OF THE BASES FOR THE ANNUAL EVALUATION.

B. THE FOLLOWING ARE SOME ADDITIONAL COMMENTS WHICH THE MISSION CONSIDERS OF PARTICULAR IMPORTANCE.

1. ANY PROJECT AGREEMENT SHOULD CONTAIN LANGUAGE REGARDING EVALUATION IN AT LEAST THREE PLACES. THIS IS TO UNCLASSIFIED

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MAKE CERTAIN THAT THE EVALUATION PROCESS IS ONE WHICH HAS BEEN MUTUALLY AGREED BETWEEN AID AND THE BORROWER/ GRANTEE, RATHER THAN A PROCESS BASED UPON A UNILATERAL INTERNAL AID DOCUMENT SUCH AS THE PROJECT PAPER. THE THREE PLACES ARE: (1) IN THE CONDITIONS PRECEDENT REQUIRING THE BORROWER TO PRESENT AN IMPLEMENTATION EVALUATION PLAN, WHICH MUST LATER BE APPROVED BY AID. (2) IN THE COVENANT SECTION IN GENERAL LANGUAGE REGARDING EVALUATIONS ON A PERIODIC BASIS. AND, (3) IN ANNEX 1, THE DETAILED

PROJECT DESCRIPTION THERE SHOULD BE A SECTION DESCRIBING THE JOINT EVALUATION PROCESS, DEFINING WHAT IS TO BE EVALUATED AND MAKING REFERENCE TO THE CONDITION PRECEDENT AND WHAT EVIDENCE IS EXPECTED IN ITS SATISFACTION.

2. SECTION 2.2 SHOULD BE DROPPED FROM THE PROJECT AGREEMENT IN ITS PRESENT PLACE AND BE PUT IN ANNEX 1. THE PRESENT LOAN AGREEMENT LANGUAGE SHOULD BE INCLUDED IN SECTION 2,1 REFERRING TO AMORE DETAILED DESCRIPTION IN AN ANNEX AND POINTING OUT THAT THAT ANNEX CAN BE MODIFIED BY AGREEMENT BETWEEN THE TWO PARTIES. WE HAVE FOUND THAT A NUMBERED SECTION, AS AN INTEGRAL PART OF AN AGREEMENT, IS FREQUENTLY VERY DIFFICULT FOR A BORROWER/GRANTEE TO AMMEND. THE CONSTITUTIONAL PROCESSES OFTEN CALL FOR NEW LEGISLATION IN EACH SUCH CASE. THEY SEEM TO SHARE WITH US THE IDEA THAT AN ANNEX CAN BE MODIFIED MORE

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SIMPLY BY MUTUAL ACCORD. BY INCLUDING BOTH FINANCIAL TABLES AND AN EVALUATION SECTION IN THE ANNEX, WE BEGIN TO DEFINE WHAT CHANGES IN THE PROJECT CAN BE EXPECTED AS A RESULT OF ANNUAL EVALUATION. HENCE, THE ANNEX CONTAINS ITS OWN LIMITS ON THE KIND OF CHANGES THAT CAN BE AGREED TO.

3. PAGE 6 OF CHAPTER 9 STATES THAT ONLY CPS AND COVENANTS CONTAINED IN THE PP/PAF WILL GO IN THE AGREEMENT. THIS PROVISIION LEADS TO TWO POSSIBLE PROBLEMS: A TENDENCY TO PUT THINGS IN THE PAF WHICH ARE NOT REALY PAF MATERIAL BUT, BECAUSE THE MISION WILL WANT TO INCLUDE THEM AS CPS OR COVENANTS IN THE AGREEMENT, WILL HAVE TO BE INCLUDED OUT OF FEAR THEY MUST BE EXCLUDED IF NOT STATED IN THE PAF: OR AN INABILITY OF THE MISSION TO INCLUDE NEEDED ADDITIONAL CPS OR COVENANTS TO COVER ISSUES INEVITABLY ARISING IN FINAL NEGOTIATIONS. ONE CANNOT PREDICT CHANGES IN ATTITUDE OR

PROCEDURE ON THE PART OF HOST COUNTRY REPRESENTATIVES. SOMETIMES THEY MAKE MINOR CHANGES IN INSTITUTIONAL ORGANIZATIONS, DISCOVER AN ADDITIONAL DECREE LAW TO BE COMPLIED WITH OR INSIST ON A MODIFICATION OF SOME TYPE IN THE RELATIONSHIP OF IMPLEMENTING ENTITIES. OBVIOUSLY, IF THESE MATTERS RESULT IN CHANGING CPS OR COVENANTS IN THE PAF, AID/W APPROVAL WILL BE REQUIRED. BUT IF A NEW CP OR COVENANT CAN BE DRAFTED TO MEET THE NEW SITUATION THE MISSION SHOULD HAVE THE POWER TO INCLUDE SUCH ADDITIONAL COVENANTS OR CPS.

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